

floatation element assembly.

Remarks/Arguments

First, the Applicant would like to thank the Examiner for the indication of allowable subject matter. With respect to the allowable subject matter, the base claims, e.g. 1 and 22 have been amended to include all of the limitations of the base claim and any intervening claims as suggested by the Examiner. The Applicant therefore believes the claims as currently amended should be in condition for allowance.

Claims 1,2-13,15-16,20-23,26-38 remain in this application.

Claims 14, 17, 18, 19 and 24-25 have been canceled.

In response to the Office Action of April 25, 2006, Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. 132.

Objections to the specification

The specification stands objected to as failing to provide proper antecedent basis for the claimed subject matter. The Examiner states that antecedent basis is not provided for the rectangular shape of the of the floatation element being 19 inches

across (claim 15) and the side walls being between about 6-30 inches in height (claim 16).

The Examiner's position is respectfully traversed. The paragraph as starting at page 13, line 10 has been amended, in pertinent part, from "In the preferred embodiment the multidirectional floatation elements are about 19 inches across when viewed from the top and between about 8 inches and 20 inches in height when viewed from the side" to "In the preferred embodiment the multidirectional floatation elements are about 19 inches across when viewed from the top and between about 6 inches and 30 inches in height when viewed from the side." No new matter has been added as support for the 6" to 30" range can be found in the claims as originally filed.

Objections to the Drawings

The drawings stand objected to under 37 CFR 1.83(a) as not showing the floatation element forming a rectangular or hexagonal shape (claims 14 and 17).

Claims 14 and 17 have been cancelled and thus this objection is considered moot.

Obviousness-Type Double Patenting

Claims 1,5-14,19-22,24 and 28-38 stand rejected under the judicially created doctrine of obviousness-type double patenting over the claim (as represented by figures 1-8) of US Patent No. D508,453, in view of Eva,III et al. (US 5,931,113).

The Applicant respectfully traverses the Examiner's position with respect to the Eva III reference. The claims as currently amended clearly distinguish over the device disclosed by Eva and thus the Applicant requests that the Examiner reconsider his position with respect thereto.

The instant application (10/779,477) and the design patent (D508,453) are commonly owned by Roy Ahern. The instant application was filed within four months of the Design Patent and discloses information that can not be found in the Design Patent. To require a terminal disclaimer because the Design Patent issued before the Utility Patent unfairly prejudices the Applicant. Thus, the Applicant respectfully submits that the filing of the terminal disclaimer, in conjunction with the claim amendments above, overcomes the rejection based on non-statutory double patenting grounds and the Applicant respectfully requests that this rejection be withdrawn.

Rejection under 35 USC 102(b)

Claims 1-11, 14, 18, 22, 23, 28-34, 37 and 38 stand rejected

under 35 USC 102(b) as being anticipated by Eva III et al. (US 5,931,113).

Claim 14 has been canceled.

In addition, the base claims, e.g. 1 and 22, have been amended to include allowable subject matter, as indicated in the current office action, wherein all of the limitations of the base claim and any intervening claims have been added to the base claim. The Applicant therefore believes the claims as currently amended should be in condition for allowance and requests that this rejection be removed.

Claims 1, 5-11, 14, 17, 18, 22, 23, 28-34, 37 and 38 stand rejected under 35 USC 102(b) as being anticipated by Ban et al. (US 5,251,560).

Claims 14, 17, 18 have been cancelled.

In addition, the base claims, e.g. 1 and 22, have been amended to include allowable subject matter, as indicated in the current office action, wherein all of the limitations of the base claim and any intervening claims have been added to the base claim. The Applicant therefore believes the claims as currently amended should be in condition for allowance and requests that this rejection be removed.

Claims 1, 5-7, 12-14, 22, 24, 28-30 and 35-38 stand rejected

under 35 USC 102(b) as being anticipated by Hillman et al. (US 6,006,687).

Claims 14 and 24 have been cancelled.

In addition, the base claims, e.g. 1 and 22, have been amended to include allowable subject matter, as indicated in the current office action, wherein all of the limitations of the base claim and any intervening claims have been added to the base claim. The Applicant therefore believes the claims as currently amended should be in condition for allowance and requests that this rejection be removed.

Rejection under 35 USC 103(a)

Claims 15 and 16 stand rejected under 35 USC 103(a) as being unpatentable over Hillman et al. (6,006,687).

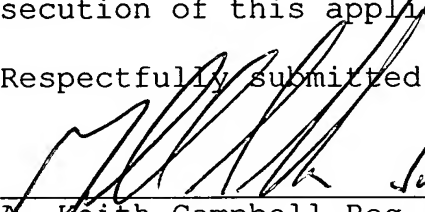
The base claims, e.g. 1 and 22, have been amended to include allowable subject matter, as indicated in the current office action, wherein all of the limitations of the base claim and any intervening claims have been added to the base claim. The Applicant therefore believes the claims as currently amended should be in condition for allowance and requests that this rejection be removed.

SUMMARY

In light of the foregoing remarks and amendments to the claims, it is respectfully submitted that the Examiner will now

find the claims of the application allowable. Favorable reconsideration of the application is courteously requested. Should there be any remaining issues which can be resolved via an Examiner's Amendment, the Examiner is urged to call the undersigned in order to expedite the prosecution of this application.

Respectfully submitted,

 *July 25, 06*
A. Keith Campbell Reg. No. 52,686
Michael Slavin Reg. No. 34,016

McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410
(561) 625-6575 (Voice)
(561) 625-6572 (Fax)

\\Ns2\server\CLIENT FILES\2600-2699\2626 - AHERN\2626U_000002 - UT PAT\Amendments\Response
for OA 04-25-06.wpd